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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/804,213	Applicant(s) SHIOTA, KAZUO	
	Examiner Usman Khan	Art Unit 2622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 October 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Response to Arguments

Regarding objection to specification provided in the previous office action for failing to provide a descriptive title. Applicant has amended the title of the invention to overcome the rejection of the invention.

Regarding rejection under 35 U.S.C. 101 provided in the previous office action for claim 12. Applicant has amended claim 12 to overcome the rejection under 35 U.S.C. 101 hence the rejection is withdrawn.

Applicant's arguments filed on 10/01/2007 with respect to claims 1 - 14 have been considered but are not persuasive.

Please refer to the following office action, which clearly sets forth the reasons for non-persuasiveness.

In response to applicant's argument that in claims 1, 11, and 12:

Regarding **claims 1, 11, and 12**, Applicant argues that the claim distinguish over Applicants Admitted Prior Art in further view of Anderson et al. by arguing that there is no requirement of storage to a portable medium in the references used.

However it is clear from Applicants Admitted Prior Art page 1 line 15 – page 2 line 4 that the storage can be either a CD-R, a DVD-R, a memory card, or a video CD. Also, in column 7 lines 32 - 47 Anderson et al. teaches that the apparatus can be an

Apple Macintosh™ computer and or applicable to any graphical computing environment. The examiner would like to point to the definition of portable which is defined by Dictionary.com as one of the following definitions: "capable of being transported or conveyed" and/or "easily carried or conveyed by hand" and/or "Computers. (of data sets, software, etc.) capable of being used on different computer systems" and/or "something that is portable". The examiner notes many if not all desktops and/or laptops that are Apple Macintosh™ computer and or applicable to any graphical computing environment are portable hence the rejection is maintained.

In response to applicant's argument that in claim 2:

Regarding **claim 2**, the rejection is maintained since the applicant does not argue this claim and only refers to it being dependent to the argued claim 1.

In response to applicant's argument that in claim 3:

Regarding **claim 3**, the applicant argues that there is no motivation to combine the teachings of Anderson et al. with the teachings of Applicants Admitted Prior Art

Examiner argues that:

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in

the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the attorney argues that there is no motivation to combine the teachings of Anderson et al. with the teachings of Applicants Admitted Prior Art but as pointed out in the previous office action it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Anderson et al. with the teachings of Admitted applicant prior art because in column 4 lines 56 – 65 Anderson et al. teaches a user friendly method for displaying and manipulating image data sets thereby organizing thumbnails and organizing data sets.

While it may not be explicitly stated in the references above that the functionality of an electronic device such as a computer may be realized by an imaging apparatus, it is well known to a skilled artisan that an imaging apparatus and a computer are in the same field of endeavor as they are both microcontroller/microprocessor controlled devices for processing data, such as imaging, image processing, and/or image manipulation.

Even if an imaging apparatus and a computer are not in the same field of endeavor, which the examiner does not concede, an imaging apparatus and a computer are reasonably pertinent to solving the problem of a user friendly method for displaying and manipulating image data sets thereby organizing thumbnails and organizing data sets and would have commended themselves to an artisan addressing such a problem. In re Clay, 966 F.2d 656, 658, 23 USPQ2d 1058, 1060 (Fed. Cir. 1992). Additionally, Anderson et al. teaches in column 6 line 66 – column 7 line 8 that other media type

could be any data set type that might be advantageously included within a programmed group, such as a sound clip in turn organizing the media in an improved manner and saving time in the future.

In response to applicant's argument that there is no motivation to combine the teachings of Masuda with the teachings of Sugiyama, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

In response to applicant's argument that in claims 5 - 10:

Regarding **claims 5 - 10**, the rejection is maintained since the applicant does not argue these claims and only refers to it being dependent to the argued claim 1.

In response to applicant's argument that in claim 8:

Regarding **claim 8**, the applicant argues that there is no teaching of a slide show in Anderson et al. and the thumbnails shown in a series as in figure 6 items 614(1) – 614(m) and further discussed in column 8 lines 13 – 34 is not a slide show.

Examiner argues that:

A slide show is defined as for example a display of a series of chosen images as shown in the Google search and further in the Business Education/Computer Technology Vocabulary List and also in dictionaries. Hence the rejection is maintained since the thumbnails shown in a series can be considered a slide show.

In response to applicant's argument that in claim 4:

Regarding **claim 4**, the applicant argues that there is no teaching of a the present invention of claim 4, where it is necessary to monitor the eyes of multiple persons placed at variable distances from the camera, and at various angles to the camera in Okumura.

Examiner argues that:

These limitations are not claimed in claim 4 i.e. there is no mention of the claim being only limited to multiple persons placed at variable distances from the camera also there is no teaching of persons placed at various angles to the camera. The claim only calls for a "The image recording apparatus according to claim 1, wherein the classification selection means carries out the selection on the image data sets for selecting images representing no blur and a person or persons whose eyes are not closed" hence the rejection is maintained.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 – 3, 5 - 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicants admitted prior art in further view of Anderson et al. (US patent No. 5,917,488).

Regarding **claim 1**, Applicants admitted prior art discloses an image recording apparatus (page 1 lines 12 – 24) comprising: image acquisition means for obtaining image data sets (page 1 lines 12 – 15).

However, Applicants admitted prior art fails to disclose a classification selection means for carrying out classification **and/or** selection on the image data sets; and media recording means for recording the image data sets that have been subjected to the classification **and/or** the selection in a portable recording medium. Anderson et al., on the other hand discloses a classification selection means for carrying out classification **and/or** selection on the image data sets; and media recording means for recording the image data sets that have been subjected to the classification **and/or** the selection in a portable recording medium (column 3 lines 57 – column 4 line 9; If the

user selects after the programmed groups are created a new data set is created within the programmed group).

More specifically, Anderson et al. discloses a classification selection means for carrying out classification (column 3 lines 15 *et seq.* and column 3 lines 57 *et seq.*; natural grouping/ programmed grouping) **and/or** selection on the image data sets (column 3 lines 6 – 14 and column 3 lines 57 *et seq.*; image data sets; and column 3 lines 57 *et seq.* selection of data sets from the groups by the user); and media recording means for recording the image data sets that have been subjected to the classification (Abstract; The memory includes a view management unit that generates a graphical window showing thumbnail representations of programmed groups; i.e. recorded in the memory are image data sets that have been subjected to the grouping which are viewable) **and/or** the selection in a portable recording medium.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Anderson et al. with the teachings of Admitted applicant prior art because in column 4 lines 56 – 65 Anderson et al. teaches a user friendly method for displaying and manipulating image data sets thereby organizing thumbnails and organizing data sets.

While it may not be explicitly stated in the references above that the functionality of an electronic device such as a computer may be realized by an imaging apparatus, it is well known to a skilled artisan that an imaging apparatus and a computer are in the same field of endeavor as they are both microcontroller/microprocessor controlled

devices for processing data, such as imaging, image processing, and/or image manipulation.

Even if an imaging apparatus and a computer are not in the same field of endeavor, which the examiner does not concede, an imaging apparatus and a computer are reasonably pertinent to solving the problem of a user friendly method for displaying and manipulating image data sets thereby organizing thumbnails and organizing data sets and would have commended themselves to an artisan addressing such a problem.

In re Clay, 966 F.2d 656, 658, 23 USPQ2d 1058, 1060 (Fed. Cir. 1992).

Regarding **claim 2**, as mentioned above in the discussion of claim 1, Applicants admitted prior art in further view of Anderson et al. teaches all of the limitations of the parent claim. Additionally, Anderson et al. teaches that the classification selection means carries out the classification on the image data sets according to **either** date of photography thereof **or** similarity between images represented by the image data sets (column 3, lines 15 – 20; a natural group, comprising a set of images associated by a temporal, spatial, or some physical relationship; or a programmed group, comprising a set of image data sets associated by a user-defined criterion).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Anderson et al. with the teachings of Admitted applicant prior art because in column 4 lines 56 – 65 Anderson et al. teaches a user friendly method for displaying and manipulating image data sets thereby organizing thumbnails and organizing data sets.

While it may not be explicitly stated in the references above that the functionality of an electronic device such as a computer may be realized by an imaging apparatus, it is well known to a skilled artisan that an imaging apparatus and a computer are in the same field of endeavor as they are both microcontroller/microprocessor controlled devices for processing data, such as imaging, image processing, and/or image manipulation.

Even if an imaging apparatus and a computer are not in the same field of endeavor, which the examiner does not concede, an imaging apparatus and a computer are reasonably pertinent to solving the problem of a user friendly method for displaying and manipulating image data sets thereby organizing thumbnails and organizing data sets and would have commended themselves to an artisan addressing such a problem.

In re Clay, 966 F.2d 656, 658, 23 USPQ2d 1058, 1060 (Fed. Cir. 1992).

Regarding **claim 3**, as mentioned above in the discussion of claim 1, Applicants admitted prior art in further view of Anderson et al. teaches all of the limitations of the parent claim. Additionally, Anderson et al. teaches that the classification selection means carries out the classification on the image data sets according to scene characteristic thereof by analyzing the scene characteristic including **at least one of**: colors of images represented by the image data sets, density distribution therein, and a shape of a subject therein (column 3, lines 15 – 20; a natural group, comprising a set of images associated by a temporal, spatial, or some physical relationship; or a

programmed group, comprising a set of image data sets associated by a user-defined criterion).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Anderson et al. with the teachings of Admitted applicant prior art because in column 4 lines 56 – 65 Anderson et al. teaches a user friendly method for displaying and manipulating image data sets thereby organizing thumbnails and organizing data sets.

While it may not be explicitly stated in the references above that the functionality of an electronic device such as a computer may be realized by an imaging apparatus, it is well known to a skilled artisan that an imaging apparatus and a computer are in the same field of endeavor as they are both microcontroller/microprocessor controlled devices for processing data, such as imaging, image processing, and/or image manipulation.

Even if an imaging apparatus and a computer are not in the same field of endeavor, which the examiner does not concede, an imaging apparatus and a computer are reasonably pertinent to solving the problem of a user friendly method for displaying and manipulating image data sets thereby organizing thumbnails and organizing data sets and would have commended themselves to an artisan addressing such a problem. In re Clay, 966 F.2d 656, 658, 23 USPQ2d 1058, 1060 (Fed. Cir. 1992).

Regarding **claim 5**, as mentioned above in the discussion of claim 1, Applicants admitted prior art in further view of Anderson et al. teaches all of the limitations of the

parent claim. Additionally, Anderson et al. teaches that the classification selection means carries out the classification first in the case where the classification and the selection are carried out (column 3 lines 57 – column 4 line 9; the user selects after the natural groups are created).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Anderson et al. with the teachings of Admitted applicant prior art because in column 4 lines 56 – 65 Anderson et al. teaches a user friendly method for displaying and manipulating image data sets thereby organizing thumbnails and organizing data sets.

While it may not be explicitly stated in the references above that the functionality of an electronic device such as a computer may be realized by an imaging apparatus, it is well known to a skilled artisan that an imaging apparatus and a computer are in the same field of endeavor as they are both microcontroller/microprocessor controlled devices for processing data, such as imaging, image processing, and/or image manipulation.

Even if an imaging apparatus and a computer are not in the same field of endeavor, which the examiner does not concede, an imaging apparatus and a computer are reasonably pertinent to solving the problem of a user friendly method for displaying and manipulating image data sets thereby organizing thumbnails and organizing data sets and would have commended themselves to an artisan addressing such a problem. In re Clay, 966 F.2d 656, 658, 23 USPQ2d 1058, 1060 (Fed. Cir. 1992).

Regarding **claim 6**, as mentioned above in the discussion of claim 1, Applicants admitted prior art in further view of Anderson et al. teaches all of the limitations of the parent claim. Additionally, Anderson et al. teaches that the classification selection means carries out the selection first in the case where the classification and the selection are carried out (column 3 lines 57 – column 4 line 9; If the user selects after the programmed groups are created a new data set is created within the programmed group).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Anderson et al. with the teachings of Admitted applicant prior art because in column 4 lines 56 – 65 Anderson et al. teaches a user friendly method for displaying and manipulating image data sets thereby organizing thumbnails and organizing data sets.

While it may not be explicitly stated in the references above that the functionality of an electronic device such as a computer may be realized by an imaging apparatus, it is well known to a skilled artisan that an imaging apparatus and a computer are in the same field of endeavor as they are both microcontroller/microprocessor controlled devices for processing data, such as imaging, image processing, and/or image manipulation.

Even if an imaging apparatus and a computer are not in the same field of endeavor, which the examiner does not concede, an imaging apparatus and a computer are reasonably pertinent to solving the problem of a user friendly method for displaying and manipulating image data sets thereby organizing thumbnails and organizing data

sets and would have commended themselves to an artisan addressing such a problem.

In re Clay, 966 F.2d 656, 658, 23 USPQ2d 1058, 1060 (Fed. Cir. 1992).

Regarding **claim 14**, as mentioned above in the discussion of claim 1, Applicants admitted prior art in further view of Anderson et al. teaches all of the limitations of the parent claim. Additionally, Anderson et al. teaches reception means for receiving an instruction to carry out further classification (column 3 lines 57 – column 4 line 9; If the user selects after the programmed groups are created a new data set is created within the programmed group) **and/or** further selection on the image data sets that have been subjected to the classification (column 3 lines 57 – column 4 line 9; If the user selects after the programmed groups are created a new data set is created within the programmed group) **and/or** the selection and for carrying out the further classification (column 3 lines 57 – column 4 line 9; If the user selects after the programmed groups are created a new data set is created within the programmed group) **and/or** the further selection based on different criteria then the previously carried out classification and/or selection (column 3 lines 57 – column 4 line 9; If the user selects after the programmed groups are created a new data set is created within the programmed group), wherein the media recording means records in the recording medium the image data sets that have been subjected to the further classification and/or the further selection by the reception means (column 3 lines 57 – column 4 line 9; If the user selects after the programmed groups are created a new data set is created within the programmed group; also Abstract; The memory includes a view management unit that generates a

graphical window showing thumbnail representations of programmed groups; i.e. recorded in the memory are image data sets that have been subjected to the grouping which are viewable).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Anderson et al. with the teachings of Admitted applicant prior art because in column 4 lines 56 – 65 Anderson et al. teaches a user friendly method for displaying and manipulating image data sets thereby organizing thumbnails and organizing data sets.

While it may not be explicitly stated in the references above that the functionality of an electronic device such as a computer may be realized by an imaging apparatus, it is well known to a skilled artisan that an imaging apparatus and a computer are in the same field of endeavor as they are both microcontroller/microprocessor controlled devices for processing data, such as imaging, image processing, and/or image manipulation.

Even if an imaging apparatus and a computer are not in the same field of endeavor, which the examiner does not concede, an imaging apparatus and a computer are reasonably pertinent to solving the problem of a user friendly method for displaying and manipulating image data sets thereby organizing thumbnails and organizing data sets and would have commended themselves to an artisan addressing such a problem. In re Clay, 966 F.2d 656, 658, 23 USPQ2d 1058, 1060 (Fed. Cir. 1992).

Regarding **claim 8**, as mentioned above in the discussion of claim 1, Applicants admitted prior art in further view of Anderson et al. teaches all of the limitations of the parent claim. Additionally, Anderson et al. teaches that the media recording means records the image data sets that have been subjected to the classification (Abstract; The memory includes a view management unit that generates a graphical window showing thumbnail representations of programmed groups; i.e. recorded in the memory are image data sets that have been subjected to the grouping which are viewable) **and/or** the selection in the recording medium in a format that enables display of a slide show (figure 6 items 614(1) – 614(m)).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Anderson et al. with the teachings of Admitted applicant prior art because in column 4 lines 56 – 65 Anderson et al. teaches a user friendly method for displaying and manipulating image data sets thereby organizing thumbnails and organizing data sets.

While it may not be explicitly stated in the references above that the functionality of an electronic device such as a computer may be realized by an imaging apparatus, it is well known to a skilled artisan that an imaging apparatus and a computer are in the same field of endeavor as they are both microcontroller/microprocessor controlled devices for processing data, such as imaging, image processing, and/or image manipulation.

Even if an imaging apparatus and a computer are not in the same field of endeavor, which the examiner does not concede, an imaging apparatus and a computer

are reasonably pertinent to solving the problem of a user friendly method for displaying and manipulating image data sets thereby organizing thumbnails and organizing data sets and would have commended themselves to an artisan addressing such a problem.

In re Clay, 966 F.2d 656, 658, 23 USPQ2d 1058, 1060 (Fed. Cir. 1992).

Regarding **claim 9**, as mentioned above in the discussion of claim 8, Applicants admitted prior art in further view of Anderson et al. teaches all of the limitations of the parent claim. Additionally, Applicants admitted prior art teaches that the media recording means records the image data sets in **either** a video CD format or a DVD video format in the recording medium (page 1 lines 12 – 15).

Regarding **claim 10**, as mentioned above in the discussion of claim 1, Applicants admitted prior art in further view of Anderson et al. teaches all of the limitations of the parent claim. Additionally, Anderson et al. teaches that the media recording means records in the recording medium the image data sets having been subjected to the classification (Abstract; The memory includes a view management unit that generates a graphical window showing thumbnail representations of programmed groups; i.e. recorded in the memory are image data sets that have been subjected to the grouping which are viewable) **and/or** the selection in a manner that enables printing thereof classification.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Anderson et al. with the

teachings of Admitted applicant prior art because in column 4 lines 56 – 65 Anderson et al. teaches a user friendly method for displaying and manipulating image data sets thereby organizing thumbnails and organizing data sets.

While it may not be explicitly stated in the references above that the functionality of an electronic device such as a computer may be realized by an imaging apparatus, it is well known to a skilled artisan that an imaging apparatus and a computer are in the same field of endeavor as they are both microcontroller/microprocessor controlled devices for processing data, such as imaging, image processing, and/or image manipulation.

Even if an imaging apparatus and a computer are not in the same field of endeavor, which the examiner does not concede, an imaging apparatus and a computer are reasonably pertinent to solving the problem of a user friendly method for displaying and manipulating image data sets thereby organizing thumbnails and organizing data sets and would have commended themselves to an artisan addressing such a problem. In re Clay, 966 F.2d 656, 658, 23 USPQ2d 1058, 1060 (Fed. Cir. 1992).

Regarding **claim 11**, Applicants admitted prior art discloses an image recording method (page 1 lines 12 – 24) comprising the steps of: obtaining image data sets (page 1 lines 12 – 15)

However, Applicants admitted prior art fails to disclose carrying out steps of: carrying out classification **and/or** selection on the image data sets; and recording the image data sets that have been subjected to the classification **and/or** the selection in a

portable recording medium. Anderson et al., on the other hand discloses carrying out steps of: carrying out classification **and/or** selection on the image data sets; and recording the image data sets that have been subjected to the classification **and/or** the selection in a portable recording medium.

More specifically, Anderson et al. discloses carrying out steps of: carrying out classification (column 3 lines 15 *et seq.* and column 3 lines 57 *et seq.*; natural grouping/ programmed grouping) **and/or** selection on the image data sets (column 3 lines 6 – 14 and column 3 lines 57 *et seq.*; image data sets; and column 3 lines 57 *et seq.* selection of data sets from the groups by the user); and recording the image data sets that have been subjected to the classification (Abstract; The memory includes a view management unit that generates a graphical window showing thumbnail representations of programmed groups; i.e. recorded in the memory are image data sets that have been subjected to the grouping which are viewable) **and/or** the selection in a portable recording medium (column 3 lines 57 – column 4 line 9; If the user selects after the programmed groups are created a new data set is created within the programmed group).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Anderson et al. with the teachings of Admitted applicant prior art because in column 4 lines 56 – 65 Anderson et al. teaches a user friendly method for displaying and manipulating image data sets thereby organizing thumbnails and organizing data sets.

While it may not be explicitly stated in the references above that the functionality of an electronic device such as a computer may be realized by an imaging apparatus, it is well known to a skilled artisan that an imaging apparatus and a computer are in the same field of endeavor as they are both microcontroller/microprocessor controlled devices for processing data, such as imaging, image processing, and/or image manipulation.

Even if an imaging apparatus and a computer are not in the same field of endeavor, which the examiner does not concede, an imaging apparatus and a computer are reasonably pertinent to solving the problem of a user friendly method for displaying and manipulating image data sets thereby organizing thumbnails and organizing data sets and would have commended themselves to an artisan addressing such a problem. In re Clay, 966 F.2d 656, 658, 23 USPQ2d 1058, 1060 (Fed. Cir. 1992).

Regarding **claim 12**, Applicants admitted prior art discloses a computer-readable medium storing a program causing a computer to record images (1 line 12 – page 2 line 4) the computer-readable medium comprising: means for obtaining image data sets (page 1 lines 12 – 15)

However, Applicants admitted prior art fails to disclose the computer readable medium comprising: means for carrying out classification **and/or** selection on the image data sets; and means for recording the image data sets that have been subjected to the classification **and/or** the selection in a portable recording medium. Anderson et al., on the other hand discloses the computer readable medium comprising: means for carrying

out classification **and/or** selection on the image data sets; and means for recording the image data sets that have been subjected to the classification **and/or** the selection in a portable recording medium.

More specifically, Anderson et al. discloses the computer readable medium comprising: means for carrying out classification (column 3 lines 15 *et seq.* and column 3 lines 57 *et seq.*; natural grouping/ programmed grouping) **and/or** selection on the image data sets (column 3 lines 6 – 14 and column 3 lines 57 *et seq.*; image data sets; and column 3 lines 57 *et seq.* selection of data sets from the groups by the user); and means for recording the image data sets that have been subjected to the classification (Abstract; The memory includes a view management unit that generates a graphical window showing thumbnail representations of programmed groups; i.e. recorded in the memory are image data sets that have been subjected to the grouping which are viewable) **and/or** the selection in a portable recording medium (column 3 lines 57 – column 4 line 9; If the user selects after the programmed groups are created a new data set is created within the programmed group).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Anderson et al. with the teachings of Admitted applicant prior art because in column 4 lines 56 – 65 Anderson et al. teaches a user friendly method for displaying and manipulating image data sets thereby organizing thumbnails and organizing data sets.

While it may not be explicitly stated in the references above that the functionality of an electronic device such as a computer may be realized by an imaging apparatus, it

is well known to a skilled artisan that an imaging apparatus and a computer are in the same field of endeavor as they are both microcontroller/microprocessor controlled devices for processing data, such as imaging, image processing, and/or image manipulation.

Even if an imaging apparatus and a computer are not in the same field of endeavor, which the examiner does not concede, an imaging apparatus and a computer are reasonably pertinent to solving the problem of a user friendly method for displaying and manipulating image data sets thereby organizing thumbnails and organizing data sets and would have commended themselves to an artisan addressing such a problem.

In re Clay, 966 F.2d 656, 658, 23 USPQ2d 1058, 1060 (Fed. Cir. 1992).

Regarding **claim 13**, as mentioned above in the discussion of claim 1, Applicants admitted prior art in further view of Anderson et al. teaches all of the limitations of the parent claim. Additionally, Applicants admitted prior art teaches that the portable recording medium comprises **one of the following**: a CD-R, a DVD-R, a DVD-RAM, an FD, an MO Disc, and a memory card (page 1 line 15 – page 2 line 4 that the storage can be either a CD-R, a DVD-R, a memory card, or a video CD)

Regarding **claim 7**, as mentioned above in the discussion of claim 1, Applicants admitted prior art in further view of Anderson et al. teaches all of the limitations of the parent claim. Additionally, Anderson et al. teaches reception means for receiving an instruction to carry out further classification (column 3 lines 57 – column 4 line 9; If the

user selects after the programmed groups are created a new data set is created within the programmed group) **and/or** further selection on the image data sets that have been subjected to the classification (column 3 lines 57 – column 4 line 9; If the user selects after the programmed groups are created a new data set is created within the programmed group) **and/or** the selection and for carrying out the further classification (column 3 lines 57 – column 4 line 9; If the user selects after the programmed groups are created a new data set is created within the programmed group) **and/or** the further selection, wherein the media recording means records in the recording medium the image data sets that have been subjected to the further classification and/or the further selection by the reception means (column 3 lines 57 – column 4 line 9; If the user selects after the programmed groups are created a new data set is created within the programmed group; also Abstract; The memory includes a view management unit that generates a graphical window showing thumbnail representations of programmed groups; i.e. recorded in the memory are image data sets that have been subjected to the grouping which are viewable).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Anderson et al. with the teachings of Admitted applicant prior art because in column 4 lines 56 – 65 Anderson et al. teaches a user friendly method for displaying and manipulating image data sets thereby organizing thumbnails and organizing data sets.

While it may not be explicitly stated in the references above that the functionality of an electronic device such as a computer may be realized by an imaging apparatus, it

is well known to a skilled artisan that an imaging apparatus and a computer are in the same field of endeavor as they are both microcontroller/microprocessor controlled devices for processing data, such as imaging, image processing, and/or image manipulation.

Even if an imaging apparatus and a computer are not in the same field of endeavor, which the examiner does not concede, an imaging apparatus and a computer are reasonably pertinent to solving the problem of a user friendly method for displaying and manipulating image data sets thereby organizing thumbnails and organizing data sets and would have commended themselves to an artisan addressing such a problem.

In re Clay, 966 F.2d 656, 658, 23 USPQ2d 1058, 1060 (Fed. Cir. 1992).

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Applicants admitted prior art in further view of Anderson et al. (US patent No. 5,917,488) in further view of Okumura (US patent No. 5,878,156) and in further view of Examiners Official Notice.

Regarding **claim 4**, as mentioned above in the discussion of claim 1, Applicants admitted prior art in further view of Anderson et al. teaches all of the limitations of the parent claim.

However, Applicants admitted prior art in further view of Anderson et al. fails to disclose the classification selection means carries out the selection on the image data sets for selecting images representing a person or persons whose eyes are not closed.

Okumura, on the other hand discloses selection on the image representing a person or persons whose eyes are not closed.

More specifically, Okumura discloses selection on the image representing a person or persons whose eyes are not closed (column 8 lines 12 – 31, detector 8 detects is eyes are opened or closed; When used with the natural group physical relationship of Anderson et al. a classification selection means carries out the selection on the image data sets for selecting images representing a person or persons whose eyes are not closed is produced).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Okumura with the teachings of Applicants admitted prior art in further view of Anderson et al. because in column 3 lines 10 - 12 Okumura teaches that the invention provides a face image processing apparatus which can detect the open or closed state of an eye at higher precision in turn higher quality i.e. open eye images can be separated from bad pictures i.e. pictures where the objects eyes are closed.

However, Applicants admitted prior art in further view of Anderson et al. in further view of Okumura fails to teach that the classification selection means carries out the selection on the image data sets for selecting images representing no blur.

The examiner takes Official Notice that it is old and well known in the art to have a classification selection means carries out the selection on the image data sets for selecting images representing no blur.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use a detector to detect the un-blurry images to separate higher quality images from the bad quality images.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Usman Khan whose telephone number is (571) 270-1131. The examiner can normally be reached on Mon-Thru 6:45-4:15; Fri 6:45-3:15 or Alt. Fri off.

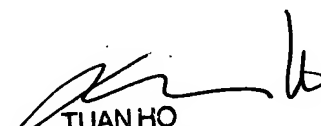
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Ometz can be reached on (571) 272-7593. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Usman Khan
12/23/2007
Patent Examiner
Art Unit 2622


TUAN HO
PRIMARY EXAMINER